

Court of Appeals, State of Michigan

ORDER

People of MI v John Leverette

Docket No. 271775

LC No. 06-100006-01

Jane E. Markey
Presiding Judge

David H. Sawyer

Janet T. Neff
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the June 30, 2006 order of the circuit court affirming the order of the district court that had dismissed the charges against defendant, as well as the district court's order itself, are VACATED and the matter is REMANDED for trial.

In evaluating the chain of evidence issue, the lower courts relied on Officer Gentry's saying he did not know from whom he got the drugs, and that he did not know if the drugs came from 299 Belmont Street. But the lower courts put too much emphasis on those literal statements and should have given greater consideration to all of the facts and circumstances. It is true that he said that he did not recall from which officer he obtained the drugs and that he did not know if they came from 299 Belmont Street. But, he did testify that he received them from one of the officers involved in the raid. And the form titled "Request for Laboratory Services" that Gentry signed and that contains the preliminary analysis of the drugs and results thereof, identifies "PO Williams" as the complainant, "299 Belmont" as the crime location, "John Leverette" as the defendant, and "N03269405" as the lock seal folder number. That is the number that was assigned to the drugs Officer Williams found. The "absence of a mistaken exchange . . . has been established to a reasonable degree of probability or certainty," and "an adequate foundation for admission of the evidence has been laid under all the facts and circumstances" of this case. That being the case, the court should have admitted the report containing the test results because any objection to it went to its weight rather than its admissibility. *People v White*, 208 Mich App 126, 132-133; 527 NW2d 34(1994). And with the admission of that evidence, there was sufficient evidence for bindover. This order shall have immediate effect. MCR 7.215(F)(2).

Neff, J. would GRANT the application for leave to appeal.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 12 2007

Date

Sandra Schultz Mengel
Chief Clerk